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EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 1st of August, 1986:—

BILL No. 63 of 1986

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

Short
title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 32 of the Constitution, the following article shall be inserted, namely:—

Insertion
of new
article
32A.

“32A. Notwithstanding anything in the Constitution, the State shall provide to every unemployed woman, irrespective of religion or caste to which she belongs, with free legal aid, as and when required, in order to ensure her security and protection against oppression and exploitation.

Free
legal aid
to women.

Explanation.—The term “free legal aid” shall mean and include free counsel, exemption from payment of court fees and expenditure on filing of plaints, petitions, writs, etc.”.

STATEMENT OF OBJECTS AND REASONS

This Bill envisages free legal aid to women in order to ensure security and Protection from oppression and exploitation. The Directive Principles of State Policy do provide, in article 39A of the Constitution, for equal justice and free legal aid to all citizens. But this provision is not enforceable by Law.

In order to make it justiciable, this provision is proposed to be enshrined as one of the fundamental rights so that women, the oppressed section of the society, can seek remedy by way of free legal aid. This will necessarily be provided by suitable legislation or schemes or in any other way to ensure that the women are protected against oppression and exploitation.

Hence, this is the right time to amend the Constitution in order to provide free legal aid to the women to enable them to safeguard their interests.

Hence this Bill.

NEW DELHI;
March 13, 1986.

PRIYA RANJAN DAS MUNSI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the free legal aid should be provided to unemployed women. For this purpose, attorneys have to be engaged to plead the cases of such women in lower courts, High Courts and Supreme Court. The Central Government shall have to provide financial assistance to State Governments in respect of cases arising out of the respective States in lower and High Courts. In respect of such cases in Union territories, the Central Government shall have to incur expenditure. It is difficult to give an estimate of expenditure to be incurred by the Central Government. However, an annual recurring expenditure to the tune of about rupees two crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

BILL No. 64 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion
of new
article 29A.

2. After article 29 of the Constitution, the following article shall be inserted, namely:—

Provision
for com-
pulsory
NCC
training,
etc. for all
able-bodied
students in
colleges and
universities.

“29A. The State shall provide compulsory National Cadet Corps training and training as provided to personnel of para military forces like Border Security Force, Central Reserve Police Force, etc., to all able-bodied students in all colleges and universities in order to prepare them to defend the country and render national service when called upon to do so.”

STATEMENT OF OBJECTS AND REASONS

This Bill envisages for compulsory N.C.C. training and training as provided to personnel of para military forces like B.S.F., C.R.P.F., etc., for able-bodied students in all colleges and universities. This training is intended to groom young men and women in their formative ages into good citizens so that in times of emergency and external aggression their services can be gainfully employed. It is one of the fundamental duties provided in Part IVA of the Constitution that it shall be the duty of every citizen of India, *inter alia*, to defend the country and render national service when called upon to do so. This duty will become more meaningful if our young men and women, having been given this basic training, are available for national and defence duties. Suitable legislation shall be necessary to provide for the necessary training schemes and their contents in this behalf. The Bill is intended to develop in the young person the national and defence temper and to inculcate in him the spirit of service to his mother land.

Hence this Bill.

NEW DELHI;
March 17, 1986.

PRIYA RANJAN DAS MUNSI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the State shall provide compulsory N.C.C. training and training as provided to personnel of para military forces like B.S.F., C.R.P.F., etc., for all able bodied students in all colleges and universities. For this purpose, the Central Government shall have to provide financial assistance to State Governments. The Central Government, in respect of Union territories, shall have to appoint required instructors and procure necessary equipments, etc. for the colleges and universities. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is very difficult to give an estimate of expenditure at this stage. However, an amount of about rupees twenty-five crores by way of recurring expenditure is likely to be involved from the Consolidated Fund of India per annum.

An amount of about rupees five crores by way of non-recurring expenditure is also likely to be involved.

BILL No. 71 OF 1986

A Bill to amend the Forest (Conservation) Act, 1980

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 1986.

(2) It shall come into force at once.

Short
title and
com-
mence-
ment,

69 of 1980.
1980.

2. In section 2 of the Forest (Conservation) Act, 1980,—

(i) after clause (ii), the following proviso shall be inserted, namely:—

Amend-
ment of
section 2.

“Provided that this clause shall not apply to a project, approved by the concerned State Government, which is for the public purpose other than cultivation and the land required is less than twenty hectares and the project shall provide for funds for the afforestation or re-afforestation, as the case may be, of the adjacent forest lands of area equal to the land acquired for the project.”; and

(ii) the existing Explanation shall be re-numbered as Explanation 1 and after Explanation 1, as so re-numbered, the following Explanation shall be inserted, namely:—

“Explanation 2.—“Project” means project relating to construction of roads, water tanks, schools, electricity works, etc.”.

STATEMENT OF OBJECTS AND REASONS

The object of Forest (Conservation) Act, 1980 is laudable. It is a fact that due to thoughtless cutting of forests, the land under forests is gradually shrinking thereby creating environmental problems. However, the Government is committed for the development of tribal, backward and hilly areas. Most of the forest lands in tribal and backward areas are reserved forests and therefore the projects relating to construction of tanks, roads, ashrams, schools, minor irrigation tanks, power plants including the employment guarantee works are held up for want of land.

Before the land is acquired for these projects, a reference is to be made to the Central Government for clearance of the project which takes two to three years for taking a decision and finally no land is made available. Therefore, land should be made available for setting up small projects for the development of backward areas. However, for the preservation of forests there is a pre-condition in the amendment that funds should be provided in the project cost itself for the afforestation on the adjacent lands.

Hence this Bill

NEW DELHI;

S. G. GHOLAP

April 3, 1986.

BILL No. 62 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commen-
cement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

(2) It shall come into force at once.

Substitu-
tion of
new arti-
cle for
article
157.

2. For article 157 of the Constitution, the following article shall be substituted, namely:—

Qualifi-
cations
for ap-
pointment
as Gov-
ernor.

“157. (1) No person shall be eligible for appointment as Governor unless he is a citizen of India.

(2) No person shall be eligible for appointment as Governor if he has not completed the age of thirty-five years or has crossed the age of sixty years.

(3) No person, who has held office as a Minister under the Central Government or the Government of a State, shall be eligible for appointment as Governor till the expiry of a period of five years from the date of his leaving the office of the Minister.”.

STATEMENT OF OBJECTS AND REASONS

Looking towards the present situation of our country, the Governor of any State should not be more than sixty years of age. He has to perform his duties and obligations, keeping before him the progressive views of the people. Any person with out-dated views and thoughts may not succeed as a Governor of any progressive State.

Also a person who has held office as a Minister either at the State level or at the Central level, if appointed as a Governor, is likely to be influenced by the views of the political party to which he belonged. So it is likely that he may not be in a position to act independently. Therefore, a person who has held office as a Minister should be appointed as a Governor only after the expiry of a period of at least five years from the date of his leaving the office.

Hence this Bill.

NEW DELHI;
April 4, 1986.

ANOOPCHAND SHAH

BILL No. 68 OF 1986

A Bill to provide for the setting up of a super thermal power station at Narasapur in West Godavari District of Andhra Pradesh.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Setting up of a Super Thermal Power Station at Narasapur Act, 1986.

Setting
up of a
super
thermal
power
station at
Narasa-
pur in
Andhra
Pradesh.

2. The Central Government shall set up a super thermal power station at Narasapur in West Godavari District of Andhra Pradesh with a view to produce electricity for the benefit of Andhra Pradesh and neighbouring States.

Prefe-
rence in
employ-
ment to
Sche-
duled
Tribes,
Harijans,
etc.

3. In the super thermal power station, to be set up under section 2, preference in the matter of employment shall be given to Scheduled Tribes, Harijans, backward classes and other economically weaker sections of the people belonging to West Godavari District of Andhra Pradesh.

STATEMENT OF OBJECTS AND REASONS

Large natural gas reserves have been found in Narasapur and other nearby areas of Andhra Pradesh due to the drilling operations by the Oil and Natural Gas Commission in the Krishna-Godavari basin. This gas can be utilised for power generation. If a super thermal power station, based on these gas deposits is set up at Narasapur, there will be plenty of electricity available to the district.

Moreover, the setting up of the power station would provide means of livelihood to educated and uneducated unemployed persons of this area, especially Scheduled Tribes, Harijans, backward classes and other economically weaker sections of people of the district.

The Bill seeks to achieve the above objective.

NEW DELHI;

V. SOBHANADREESWARA RAO

April 23, 1986

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the setting up of a super thermal power station at Narasapur in West Godavari District of Andhra Pradesh by the Central Government. This would involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of rupees five crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of rupees fifty crores is also likely to be involved from the Consolidated Fund of India.

BILL NO. 77 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

Short title
and com-
mence-
ment.

(2) It shall come into force at once.

2. After article 38 of the Constitution, the following article shall be inserted, namely:—

Insertion
of new
article
38A.

“38A. The State shall take steps to reserve forty-five per cent. of posts and appointments to an office under the Government of, or any local or other authority within, a State or Union territory for people belonging to economically weaker sections of society and shall ensure that the reserved posts are filled up from amongst them.”.

Reserva-
tion of
posts for
economy-
cally
weaker
sections
of society.

3. After article 45 of the Constitution, the following article shall be inserted, namely:—

Insertion
of new
article
45A.

“45A. The State shall endeavour to provide free education from primary level onwards, which shall include higher, technical, vocational, literary, professional education, and also for scholarships, free hostel facilities, books, etc. to people belonging to economically weaker sections of society.”.

Provision
of free
education
to econ-
omically
weaker
sections
of society.

Amend-
ment of
article
47.

4. In article 47 of the Constitution, after the words "the State shall endeavour", the words "to provide free medical facilities including all medicines, hospitalisation charges, etc. to people belonging to economically weaker sections of society and" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The condition of economically weaker sections of society is very miserable and they live in inhuman conditions. They live in the slums in urban areas and as landless labourers, etc. in rural areas in dire poverty. Their plight and woes are undescrivable. Though the Government has been doing much for the upliftment of these weaker sections of society but much more is yet required to be done in this regard. In order to see that the benefits of development and progress reach every citizen of India and they join the mainstream of our national life, social security for the economically weaker sections of society is very much essential.

Hence this Bill.

BALASAHEB VIKHE PATIL

NEW DELHI;

June 26, 1986.

BILL No. 75 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

(2) It shall come into force at once.

Amend-
ment of
article
335.

2. In article 335 of the Constitution, the following proviso shall be added at the end, namely:—

“Provided that the concessions, facilities etc. provided to the Scheduled Castes, Scheduled Tribes and other economically weaker sections of society by public sector enterprises shall also be provided to them by industries in the private sector failing which the various concessions, facilities, reliefs, etc. provided to such industries from time to time shall be withdrawn.”.

STATEMENT OF OBJECTS AND REASONS

Scheduled Castes, Scheduled Tribes and other economically weaker sections of society are the most hard hit lot in our country and the Government has been doing every thing for their betterment. The growth of industry in the country, particularly in the private sector, has been quite appreciable and Government have been announcing various concessions, etc. from time to time for the encouragement of industry and the private sector in particular has been much benefited by it. These benefits arising out of these concessions given by the Government have been restricted to the private industrialists themselves and the Scheduled Castes, Scheduled Tribes and other economically weaker sections of society, which are the prime concern of the Government, have been ignored by them. The various concessions, facilities, reservation in posts and appointments, etc. available to Scheduled Castes, Scheduled Tribes and other economically weaker sections of society in the public sector industries should also be made available to them in private sector industries so that they may also be benefited and may join the mainstream of our national life.

Hence this Bill.

NEW DELHI;

BALASAHEB VIKHE PATIL

June 26, 1986.

BILL No. 78 of 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

(2) It shall come into force at once.

Amendment
of article 81.
Amendment
of article
82.

2. In article 81 of the Constitution, in clause (3), the proviso shall be omitted.

3. In article 82 of the Constitution, the last proviso shall be omitted.

Amendment
of article
170.

4. In article 170 of the Constitution,—

(i) in clause (2), the proviso to the *Explanation* shall be omitted;

(ii) in clause (3), the last proviso shall be omitted.

STATEMENT OF OBJECTS AND REASONS

As per the provisions of articles 81, 82 and 170 of the Constitution, no Delimitation Commission can be constituted till 2,000 A.D. and as such the present number of seats in the House of the People and the State Assemblies will be maintained. Since there is an increase in population there is need to reorganise the constituencies according to the present population and the number of voters. The Bill seeks to restore to Parliament the power to constitute a new Delimitation Commission.

BALASAHEB VIKHE PATIL

NEW DELHI;
June 26, 1986.

BILL NO. 74 OF 1986

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title
Amend-
ment of
Article 163.

1. This Act may be called the Constitution (Amendment) Act, 1986.
2. In article 163 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

“(2A) Notwithstanding anything in this article, the Governor shall not be required to exercise his discretionary powers in deciding the question of according sanction to prosecute the Chief Minister or a Minister.”.

STATEMENT OF OBJECTS AND REASONS

In view of the judgment of Supreme Court in the State of Maharashtra Vs. Ramdas Srinivas Nayak and others (A.I.R. 1982 S.C. 1249) in deciding to accord sanction or not to the prosecution of the Chief Minister, the Governor would act in the exercise of his discretion and not with the aid and advice of the Council of Ministers. This would make the Governor an autocrat in a democracy. Moreover, the opposition parties may take advantage of this decision and approach the Governor for according sanction for the prosecution of the Chief Minister or a Minister. The Governor, in the light of the decision, may be tempted to act in his discretion. This question assumes greater importance in view of the fact that in many of the States, parties different from the ruling party at the Centre are in power. This situation has to be avoided in toto. The Governor is the constitutional head of the State and he has to act on the advice of the Council of Ministers. If sanction to prosecute a Minister is asked for, then, it should be obligatory on the part of the Governor to act on the advice of the Council of Ministers.

Hence this Bill.

NEW DELHI;
June 28, 1986.

P. KOLANDAIVELU.

BILL NO. 80 OF 1986

A Bill to amend the Medical Termination of Pregnancy Act, 1971.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commen-
cement.

1. (1) This Act may be called the Medical Termination of Pregnancy (Amendment) Act, 1986.

(2) It shall come into force at once.

Amend-
ment of
section 3.

2. In section 3 of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the principal Act), in sub-section (2), before *Explanation* 1, the following proviso shall be inserted, namely:—

34 of 1971.

“Provided that no pregnancy of a woman shall be terminated by a registered medical practitioner or practitioners, as the case may be, if he or they have reason to believe that such termination is sought with intention to commit female foeticide after having determined the sex of the child to be born by a sex-determination test.”.

3. In section 4 of the principal Act, after clause (b), the following proviso shall be inserted, namely:—

Amend-
ment of
section

“Provided that no place shall be approved for the purpose of this Act by Government if sex-determination tests are held in such place and it is privately owned.”.

STATEMENT OF OBJECTS AND REASONS

Since the passing of the Medical Termination of Pregnancy Act, 1971, it is found that now-a-days the provisions are misused by those who desire to have only male children. There are private sex-determination clinics which carry out tests and once the foetus is discovered to be a female, the pregnant mother often goes to a Government or municipal hospital to have the abortion. In some cases even the sex-determination clinics also carry out abortions on request. Sex-determination tests and selective abortion, or female foeticide amount to misuse of science and technology, social oppression of women and abuse of human rights.

Hence this Bill.

SHARAD DIGHE

NEW DELHI;
June 30, 1988.

BILL NO. 76 OF 1986

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1986. Short title.
2. After article 46 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 46A.

"46A. The State shall respect the identity of the religious, linguistic and ethnic minorities and encourage its preservation by promoting their educational and economic advancement and protecting them against physical violence."

Identity, protection, etc. of religious, linguistic and ethnic minorities.

STATEMENT OF OBJECTS AND REASONS

India is a land of many religions, languages and races. While introducing the concept of equality before law and freedom of conscience and of religion, the Constitution also recognises the existence of religious and linguistic minorities and vests them, as distinct groups, with religious, educational and cultural rights, to be exercised as a group.

However, even after three decades of the coming into force of the Constitution, the minorities continue to feel insecure partly because of a persistent pattern of discrimination against them in employment and higher education and partly because of pressures for cultural assimilation and the recurrences of physical violence bordering on genocide, which the State has been unable to control or prevent. Indeed the State has been largely reduced to a silent spectator while many functionaries of the State, in their individual capacities, have been parties to acts of such discrimination and partiality and to the exercise of psychological, economic and administrative pressures against the minorities and such functionaries have sometimes even participated in the commission of physical atrocities.

The right of the minorities to exist as distinct cultural entities and to enjoy the full protection of the State and its laws, needs, therefore, to be underlined. Such a duty imposed on the State shall be in accordance with our tradition of tolerance and our concept of unity in diversity. It shall oblige the State not only to respect the identity of the minorities and encourage its preservation but also to develop a national consensus in favour of plurality against monolithism.

Hence the Bill.

NEW DELHI;

SYED SHAHABUDDIN

July 1, 1986.

BILL NO. 79 OF 1986

A Bill to provide for the application of the principles of secularism in Government and administration.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Promotion of Secularism Act, 1986.

Short
title and
extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “force”, “fraud” and “inducement” shall have the same meanings as assigned to them in the Indian Penal Code, 1860;

(b) “religion” means the faith which a person professes;

(c) “secularism” means the separation of the State and religion as well as non-discrimination by the State among citizens on the basis of religion.

45 of 1860.

3. Every citizen shall have the right to profess and practise the religion of his choice or follow the faith or form of worship as he deems fit and shall have the right peacefully to propagate his religion, faith or form of worship in order to persuade others to join his religion, faith or form of worship.

Right to
profess
and
practise
religion.

State
not to
interfere
in reli-
gious
matters.

4. The State shall not interfere with the freedom of conscience and the right to freely profess, practise and propagate religion, faith or form of worship and shall protect every citizen from interference by others:

Provided that in case of allegation of use of force, fraud or inducement or physical threat or fear of such threat in the matter of exercise of such freedom the provisions of the Indian Penal Code, 1860 shall apply on complaint being filed by the aggrieved citizen.

45 of 1860.

Allotment
of land
by State
for reli-
gious
purposes
and
removal of
unautho-
rised occu-
pation of
religious
places.

5. (1) The State shall allot public land for construction of places of worship, for graveyards, cemeteries and cremation sites for seminaries and institutions for religious education on equitable terms and shall not cause any property, where religious worship is held or any religious rite is performed, to be removed, altered or changed in any manner except with the written consent of the affected people:

Provided that where the public purpose requires such removal, alteration or change, the State shall notify it in the Official Gazette and may acquire it after giving due opportunity to the affected people to be heard, if they agree to the alternative site offered.

(2) The provisions and procedures contained in the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, shall apply in relation to the unauthorised occupation of religious places as they apply in relation to the unauthorised occupation of the public premises.

40 of 1971.

State not
to permit

official
religious
functions.

State not
to incur
expen-
diture.

State to
appoint a
Commis-
sion to
review
secula-
rism.

6. The State shall not permit any religious worship, or rite or ritual or ceremony or any religious symbol at any state function or on official occasion or in any public premises.

7. The State shall not incur any expenditure on the visit of Ministers or public servants to religious shrines or places of pilgrimage, except in course of public duty.

8. (1) There shall be appointed a Commission every five years to review the representation of various religious groups in Government services, in the public sector and their access to higher education and to suggest remedial measures for avoiding over-or-under-representation of any religious group in such service or employment or education.

(2) The Commission shall consist of three members of whom the Chairman shall be a person who has been, or is eligible to serve as, a Judge of a High Court or has been a Secretary to the Government of India.

State to
ensure
balance
among
religious
groups.

9. The State shall, as far as possible, ensure balance among all religious groups in all its discretionary appointments.

Act to
have
overrid-
ing effect.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

The Constitution provides for freedom of religion and conscience but there is no law under which a citizen can secure State protection for exercising this right. Over a period of time secularism has come to be identified with a policy of equidistance towards all religions. This has meant in practice that religious rites are being performed on public occasions and religious shrines are being constructed on public premises.

Beside this, religious minorities continue to feel discriminated against in matters of public employment and access to higher education. Short of reservation on the basis of religion, remedial measures require to be taken by the State to remove any consistent pattern of over or under representations of any religious community.

Further, there are so many instances of public land being allotted and places of worship being refused construction or demolished or desecrated on a selective basis. All this calls for a Bill to translate the constitutional guarantee into a legal right and define rights and duties which should be legally enforceable.

Hence this Bill.

New Delhi;

SYED SHAHABUDDIN

July 1, 1986.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the appointment of a Commission every five years to review the representation of various religious groups in Government services, in the public sector and their access to higher education. The Commission shall consist of three members of whom the Chairman shall be a person who has been, or is eligible to serve as, a Judge of a High Court or has been a Secretary to the Government of India. There will be some expenditure on the Commission and also on payment of salaries to the employees of the Commission. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one lakh per annum.

It is also likely to involve a non-recurring expenditure of about rupees five thousand.

BILL No. 83 OF 1986

A Bill to regulate and register the marriages of Indian citizens with foreign nationals.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Marriage with Foreign Nationals (Regulation and Registration) Act, 1986.

Short
title and
extent.

(2) It extends to the whole of India.

2. Notwithstanding anything contained in any custom or personal law or any other law for the time being in force, no citizen of India shall marry a foreign national except with the prior permission of the Board for marriages constituted under section 3.

Marriage
with
foreign
nationals
only with
prior per-
mission
of Board
for
mar-
riages.

3. (1) The Central Government shall constitute an autonomous Board for marriages with foreign nationals in each State consisting of five persons including jurists, theologians or priests and social workers for scrutinising the proposals for marriages and for granting or refusing permission to the solemnization of marriage;

Constitu-
tion of
marriage
Boards.

Provided that in case of a State in India where an *Imarate-e-Sharia* is in existence the functions of the Board shall be performed by the
69 G of I

Imarate-e-Sharia in case the Indian party is a Muslim and accepts the authority of the *Imarate-e-Sharia*.

(2) The Secretary of the Board shall act as the Marriage Registration Officer for such marriages.

(3) The Board shall, *inter alia*, take into account the provisions of personal laws applicable to both the parties to the marriage, the relative economic and social status of the parties to the marriage—both Indian and foreign, their age differential, the advice of the Government of the country to which the foreign national belongs, the views of the Indian mission accredited to that foreign State and the general terms of the proposed marriage.

Foreign national to deposit an amount for marriage with an Indian citizen.

4. A foreign national shall deposit a reasonable amount, to be determined by the Board in addition to any amount payable under the personal law of the Indian partner to the marriage, in the form of an irrevocable fixed deposit in favour of the Indian partner with a scheduled bank in India to be paid to the Indian partner in the event of abandonment or irrevocable divorce or irretrievable breakdown of the marriage.

Marriages to be registered with the marriage registration Officer within four weeks.

5. (1) Every marriage of a citizen of India with a foreign national on solemnisation, shall be registered with the marriage registration Officer within four weeks of the date of solemnisation in the prescribed form by the Indian party to the marriage or his parent or guardian, duly supported by the person performing the marriage.

(2) Whoever fails to register a marriage shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees.

(3) Any person who acts as a professional intermediary or as a commission agent or abets the performance of a marriage without the permission of the competent authority shall be punishable with imprisonment which shall extend to one year or with fine which may extend to ten thousand rupees or with both.

Power to make rules.

6. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in the session or in two or more successive sessions and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Overriding effect of the Act.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

Of late there have been many instances of foreign nationals, mostly males, marrying Indian citizens on false pretences and later abandoning them with or without divorcing and marrying them to others on payment of consideration. Such marriages, indeed, amount to immoral traffic and constitute exploitation of Indian womanhood.

The fact that daughters are looked upon as a social burden and some of them remain unmarried upto an advanced age because of prevalent customs, makes the ground fertile for such operators.

In many cases, the credentials of the foreign nationals and their capability to maintain their spouses is also doubtful.

In view of this it appears to be imperative that such marriages should be regulated and should be performed only with the prior permission of the Central Government. Such permission should be given normally after due enquiry from the foreign government concerned and the Indian mission accredited to it.

Such regulation is bound to lead to the outcry that the Government is interfering with the personal Law applicable to the Indian citizen concerned. The power of regulation may, therefore, in case of duly constituted religious authority therefore be restored to them.

Admittedly such regulation is bound to cause restraint even in legitimate cases. But in view of the prevailing situation, such have to be regulated by suitable legislation both in the interest of the individuals and the society. The Government should, however, see to it that permission in genuine cases is granted expeditiously.

Hence this Bill.

NEW DELHI;
July 1, 1986.

SYED SHAHABUDDIN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of an autonomous Board for marriages with foreign nationals by the Central Government in each State for scrutinising the proposals for marriages and for granting or refusing permission to the solemnization of marriage. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one lakh per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten thousand.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.